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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,887	02/12/2004	Amol R. Chitre	112056-0135U	6695
24267	7590	11/07/2007		
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			EXAMINER LEROUX, ETIENNE PIERRE	
			ART UNIT 2161	PAPER NUMBER
			MAIL DATE 11/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/777,887	<b>Applicant(s)</b> CHITRE ET AL.	
	<b>Examiner</b> Etienne P. LeRoux	<b>Art Unit</b> 2161	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*Claim Status*

Claims 1-69 are pending. Claims 1-69 are rejected as detailed.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-69 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,889,228 (Federwisch), hereafter Federwisch.

The applied reference has a common assignee, i.e., Network Appliances Inc., with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Claims 1, 11, 21, 30-38, 41-46, 48-69:

Federwisch discloses:

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means for identifying a dependency upon the set of PCPIs [PCPI is interpreted as snapshots which are copies of the block map and blocks for a volume at a consistency point at which the volume on the filer is self-consistent, col 4, lines 25-30]

means for creating a set of soft locks, each soft lock in the set of soft locks associated with each of the PCPIs in the set of PCPIs [softlocks mark snapshots that need to be retained, col 5, lines 50-60]

means for transmitting the set of soft locks to one or more of the set of computers [softlocks are stored in a memory cache for efficient access during file system operations, col 5, lines 60-65, each filer can include softlocks only about what volumes are mirrored to immediately adjacent filers, cascading or chained mirroring, col 5, lines 5-10]

Claims 2, 12, 22:

Federwisch discloses wherein the set of computers comprises a set of storage appliances [Fig 2]

Claim 3, 13, 23:

Federwisch discloses wherein each soft lock comprises a PCPI identifier field, a type field and a string field [master volume, master filer, blockmap, col 5, lines 15-30]

Claim 4, 14, 24:

Federwisch discloses wherein the string field comprises user visible information [col 6, lines 1-5]

Claim 5, 15, 25:

Federwisch discloses wherein the string field identifies an application that depends upon the PCPI associated with the soft lock [col 5, lines 50-60]

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Claim 6, 16, 26:

Federwisch discloses wherein the type field identifier a type of data in the string field  
[master filer, col 5, lines 15-20]

Claim 7, 17, 27:

Federwisch discloses wherein the type of data comprises an owner name [col 5, lines 15-20]

Claim 8, 18, 28:

Federwisch discloses wherein the type of data comprises a destination path [col 6, lines 55-65]

Claim 9, 19, 29, 40:

Federwisch discloses wherein the type of data comprises a qtree name [tree of mirrors, col 6, lines 60-65]

Claim 10, 20, 22, 39, 47:

Federwisch discloses wherein the means for transmitting the set of soft locks to one or more of the set of computers further comprises means for transmitting the set of soft locks before an asynchronous mirroring process and means for transmitting the set of soft locks after an asynchronous mirroring process [cron scheduler, col 6, lines 5-15]

***Response to Arguments***

Applicant's arguments filed 10/12/2007 have been fully considered but they are moot based on above new grounds of rejection.

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***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached Monday through Friday, 8:00 am - 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Etienne LeRoux

11/5/2007



**ETIENNE LEROUX  
PRIMARY EXAMINER**